

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
HUNTINGTON DIVISION**

**OHIO VALLEY ENVIRONMENTAL  
COALITION, et al.,**

**Plaintiffs,**

**V.**

**Civil Action No. 3:08-0979**

**UNITED STATES ARMY CORPS OF  
ENGINEERS, et al.,**

**Defendants.**

**STIPULATION AND JOINT MOTION TO ENTER FINAL JUDGMENT AND  
RELEASE BOND**

The parties stipulate to the following facts and jointly move the Court to enter a final judgment and release the bond posted by Plaintiffs in this action:

1. On May 18, 2012, the Court granted Plaintiffs' motion for a temporary restraining order. Doc. #243. On May 23, 2012, Plaintiffs posted a \$500 bond to secure that order. Doc. #249. On May 24, 2012, the Court lifted the temporary restraining order and denied Plaintiffs' motion for a preliminary injunction. Doc. #250.

2. The parties agree that the \$500 bond posted by Plaintiffs should be released.

3. On March 28, 2013, the Court entered a Memorandum Opinion and Order (a) granting in part Plaintiffs' motion for summary judgment as to Count One of their Fifth Supplemental Complaint and denying in part Defendant-Intervenor Loadout, LLC's and Defendant U.S. Army Corps of Engineers' (the Corps) cross-motions for summary judgment on that Count, (b) remanding the reissued Section 404 permit for Loadout LLC's mining project to the Corps for reconsideration, and (c) dismissing without prejudice Counts Two and Three of Plaintiffs' Fifth Supplemental Complaint. Doc. #288.

4. On October 29, 2013, the Corps notified the Court of its decision on remand.  
Doc. #290.

5. The parties agree that the Corps' remand decision complies with the Court's March 28, 2013 Order, and that there are no further claims in this action that require a decision on the merits.

The parties therefore move the Court to release the bond, enter a final judgment, and accept the facts in this Stipulation. A proposed Order and Final Judgment is filed herewith.

Respectfully submitted,

s/ Derek O. Teaney  
Joseph M. Lovett  
Derek O. Teaney  
Appalachian Mountain Advocates  
P.O. Box 507  
Lewisburg, WV 24901  
(304) 645-9006  
dteaney@appalmad.org

James M. Hecker  
Public Justice  
1825 K Street, N.W. Suite 200  
Washington, D.C. 20006  
(202) 797-8600  
jhecker@publicjustice.net

Counsel for Plaintiffs

Cynthia J. Morris  
U.S. Department of Justice  
Environment & Natural Resources Division  
Environmental Defense Section  
P.O. Box 23986  
Washington, DC 20026-3986  
(202) 616-7554

s/ Ruth Ann Storey  
Ruth Ann Storey  
U.S. Department of Justice  
Natural Resources Section

P.O. Box 663  
Washington, D.C. 20044-0663  
(202) 305-0493

Counsel for the Federal Defendants

s/ Terry R. Sammons  
Terry R. Sammons (WVSB #7502)  
Sammons Law Offices, PLLC  
P.O. Box 1747  
Gilbert, West Virginia 25621  
(304) 664-2688  
(304) 664-8586 facsimile  
terry@sammonslaw.com

W. Howard Sammons, II (WVSB #9714)  
Law Office of W. Howard Sammons II, PLLC  
2768 Pennsylvania Avenue  
Charleston, West Virginia 25302  
(304) 345-7500  
(304) 345-7504 facsimile  
hsammons@frontier.com

Edward P. Tiffey (WV Bar #6042)  
Edward P. Tiffey, PLLC  
205 Capitol Street, Fourth Floor  
Post Office Box 3785  
Charleston, West Virginia 25337-3785  
(304) 344-3200  
(304) 344-9919 facsimile  
ed@tiffeylaw.com

Nicholas S. Preservati (WVSB #8050)  
Preservati Law Offices, PLLC  
P. O. Box 1431  
Charleston, West Virginia 25325  
(304) 346-1431  
(304) 346-1744 facsimile  
nsp@preservatilaw.com

Counsel for Defendant-Intervenors  
Loadout LLC and Coal River Mining, LLC

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**Civil Action No. 3:08-0979**

**[Proposed] ORDER AND FINAL JUDGMENT**

Upon consideration of the parties' Stipulation and Joint Motion to Enter Final Judgment and Release Bond, the Court grants the motion and orders as follows:

1. The \$500 bond posted by Plaintiffs (Doc. #249) is released and may be returned to Plaintiffs.
2. The Court accepts the facts in the parties' Stipulation, and finds that there are no further claims in this action that require a decision on the merits.
3. Plaintiffs may file a motion for an award of attorneys' fees and expenses under the Equal Access to Justice Act, 28 U.S.C. § 2412(d)(2)(A), no later than 30 days after the entry of this order and final judgment.

ENTER:

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ROBERT C. CHAMBERS  
UNITED STATES DISTRICT JUDGE